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*ADMITTED IN LOUISIANA

TO: EXAMINER DENNIS ALBRECHTTELECOPY #: 703/557-9564FIRM: COMMISSIONER OF PATENTS & TRADEMARKSLOCATION: WASHINGTON, D.C.
City/StateNo. of Pages Including Cover Letter: 8SPECIAL INSTRUCTIONS: _____

_____FROM: JAMES B. GAMBRELLIF YOU DO NOT RECEIVE ALL PAGES OR ARE HAVING TROUBLE, PLEASE CALL
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In re Applicant: CHING-WU CHU

Serial No.: 300,063

Filed: January 23, 1989

Group Art Unit: 115

For: HIGH TRANSITION TEMPERATURE
SUPERCONDUCTING COMPOSITIONS

Examiner: Dennis Albrecht

*Noted
SLA
7-19-90*

SUPPLEMENTAL COMMUNICATION TO THE
PRELIMINARY AMENDMENTS OF DECEMBER 1 AND 11, 1989

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Via FAX -- 703/557-9564

Dear Sir:

Supplementing the remarks contained in the Preliminary Amendments filed on December 1, 1989 and December 11, 1989, are the following comments. These are offered in view of certain comments made by the Examiner respecting the contents of the Preliminary Amendments.

Applicant's request that the Examiner act upon the merits of all claims now pending before declaring any interference is in accordance with the policy requirements set forth in M.P.E.P. § 2305.01. That policy is stated as follows:

"At the same time that the claims are suggested an action is made on each of the applications that are up for action by the examiner, whether they be new or amended cases. In this way possible motions under 37 CFR 1.633 (c) and (d) may be forestalled. That is, the action on the new or amended case may bring to light patentable claims that should be included as corresponding to the count of, or as forming the basis for an additional count of the interference, and, on the other hand, the rejection of unpatentable claims will serve to indicate to the opposing parties the position of the examiner with respect to such claims."

Applicant believes that an action on the merits will
"bring to light patentable claims that should be included
... as forming the basis for an additional count"

As M.P.E.P. § 2305 states:

"The question of what claim or claims to suggest in the interfering application is one of great importance, and failure to suggest such claims as will define clearly the matter in issue leads to confusion and to prolongation of the contest.

Before deciding what claim or claims to suggest to an applicant, the examiner should decide what the count or counts of the prospective interference will be, keeping in mind that the count must be patentable over the prior art and define the parties' common invention (see M.P.E.P. § 2309 regarding the formation of counts). The claim suggested to the applicant need not be identical to the prospective count, but rather should be the broadest claim within the scope of the prospective count which the applicant's disclosure will support, and which is otherwise patentable to the applicant."

The criticality of formulating a proper count is noted at
M.P.E.P. § 2301.02 as follows:

"A 'count' defines interfering subject matter. An interference may have two counts only if the second count defines a 'separate patentable invention' from the first count. The reason the second count must define a separate patentable invention is to permit the PTO to lawfully issue separate patents to different parties in an interference when a single party does not prevail as to all counts. A 'separate patentable invention' is defined in 37 CFR § 1.601(n):

Invention (A) is a "separate patentable invention' with respect to invention (B) when invention (A) is new (35 U.S.C. 102) and unobvious (35 U.S.C. 103) in view of invention (B) assuming invention (B) is prior art with respect to invention (A).

The principles which must be kept in mind in formulating a count are identified at M.P.E.P. § 2309.01:

"In formulating the count or counts, the examiner must decide two interrelated questions: (1) how many counts will there be, and (2) what will the scope of each count be. The following principles should be kept in mind.

1. Each count must be drawn to a separate patentable invention, that is to say, the invention defined in each count must not be the same as, or obvious over, the invention defined in any other count. However, a count may properly be included if it is unobvious over another count, even though the reverse might not be true. For example, a count to a species and a count to a genus might properly both be included in the interference if the species is patentable over the genus, even though the genus might not be patentable, given the species

2. A count should normally be sufficiently broad as to encompass the broadest corresponding patentable claim of each of the parties

3. A count may not be so broad as to be unpatentable over the prior art"

During the telephone conversation with the Examiner following his receipt of the two Preliminary Amendments, he expressed doubt about the patentability of the broader claims urged by applicant as the appropriate basis for forming a count for a proposed interference. This is why the Examiner should first act on the merits of all pending claims as required by M.P.E.P. § 2305.01. Further, as the Examiner is aware:

"... The 'count' ... is merely the vehicle for contesting priority which, in the opinion of the Commissioner, effectively circumscribes the interfering subject matter, thereby determining what evidence will be regarded as relevant on the issue of priority. The 'count,' as distinguished from a party's 'claim,' need not be patentable to either party in the sense of being fully supported by either party's disclosure"

Squires v. Corbett, 194 U.S.P.Q. 513, 519
(C.C.P.A. 1977)

If the Examiner's doubts about the patentability of the broader claims are based upon prior art, then he should act on the merits and issue an action letter identifying the prior art and his rationale for the rejection. If the Examiner's doubts are based upon 35 U.S.C. § 112 support, it should be evident from Squires that such concerns are inappropriate relative to a "count" as opposed to claims of a party. If the Examiner's doubts relate to a 35 U.S.C. § 112 question of overbreadth, then the Examiner is requested to consider Case v. CPC International, Inc., 221 U.S.P.Q. 196, 199 (Fed. Cir. 1984), cert. denied, 105 S.Ct. 223, which states:

"Dr. Case also asserts that the phantom counts are 'so broad as to fail to particularly point out and claim the invention in issue, and the "phantom" counts are thus unpatentable under 35 U.S.C. 112.'

[3] Case confuses 'claims' and 'counts' throughout his argument but never is wider of the mark than here. The counts are not claims to an invention by either party. The purpose of the count is to determine what evidence is relevant to the issue of priority. Squires v. Corbett, 560 F.2d at 433, 194 U.S.P.Q. at 518-19, 35 U.S.C. § 112, second paragraph relates only to actual claims.

The Examiner is further requested to consider Hsing v. Myers, 2 U.S.P.Q. 2d 1861, 1862, n.1 (Bd. Pat. Int. 1986) which states:

"... The count of an interference is merely the vehicle for contesting priority and need not be patentable under 35 U.S.C. 112 to either party. In re Kroekel, _____ F.2d _____, 231 USPQ 640 (Fed. Cir. 1986); Case v CPC International, Inc., 730 F.2d 745, 221 USPQ 196 (Fed. Cir. 1984), cert. denied, 105 S.Ct. 223, 224 USPQ 736 (1984); Squires v. Corbett, 560 F.2d 424, 194 USPQ 513 (CCPA 1977); Wiesner v. Weigert, 666 F.2d 582, 212 USPQ 721 (CCPA 1981) and Hedgewick v. Akers, 497 F.2d 905, 182 USPQ 167, note 6 (CCPA 1974). See §§ 1.601(f), 1.603 and 1.606."

For reasons set forth in the remarks of the Preliminary Amendment filed December 1, 1989, Applicant believes broader claims 19, 22, 23, 25 and/or 26 are each patentable over the prior art. Such "doubts" as the Examiner may have about the patentability of such broader claims to Applicant under the written support or particularity requirements of 35 U.S.C. § 112 are not relevant "doubts" vis a vis the use of such broader claims as the basis for an interference count.

Further, since the Board of Patent Appeals and Interferences now decides the issue of "patentability of the invention", see 37 C.F.R. § 1.655(a)(3), the Examiner should resolve his doubts in favor of patentability and utilize the broader claims as forming the basis for a count of the interference. If such broader claims are of "doubtful" patentability to Applicant, the opposing party in the interference may file a motion under 37 C.F.R. § 1.633(a) and after full discussion of the issue by Responses and Replies under 37 C.F.R. § 1.638, the Examiner-in-Chief (EIC) will be able to decide the matter. Moreover, the decision of the EIC will then be subject to review by the Board of Patent Appeals and Interferences and thereafter, if necessary, by the Court of Appeals for the Federal Circuit or other reviewing Court. These reviews should provide more than enough safeguards for the Examiner's action if it becomes clear the claims are not patentable to someone under 35 U.S.C. § 103.

Accordingly, before declaring an interference, the Examiner should either resolve his doubt now during ex parte prosecution so that Applicant may appeal and have

the matter reviewed if the Examiner resolves his doubt against patentability. If there is reason to proceed with a declaration of interference before such "doubt" may be finally resolved by ex parte procedures, then for purposes of declaring such interference that "doubt" can safely be resolved in favor of declaring the interference on the broad count. Resolution of such doubt in favor of a broad count will enable the parties to fully discuss the issue in preliminary motions placing into action the self-correcting review procedures of the Examiner-in-Chief's and the Board's seriatim authority to decide the issue of "patentability of the invention."

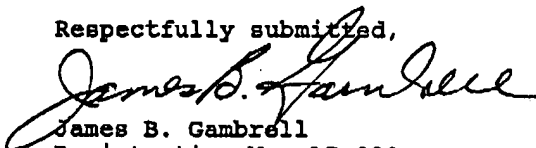
If the Examiner is still in doubt or believes the practice of count formation to be obscure or confused after reflecting on it, it is submitted that the Examiner should follow the stricture of M.P.E.P. § 2309.05:

"The examiner should consult with one of the examiners-in-chief in any case of doubt or where the practice appears to be obscure or confused. In view of their specialized experience they may be able to suggest a course of action which will avoid considerable difficulty in the future treatment of the case."

If still in doubt, the Examiner is requested to confer with Ronald Smith, author of the decision in Heymes v. Takaya, 6 U.S.P.Q.2d 1448 (Bd. Pat. Int. 1988) and the Examiner-in-Chief in Interference No. 101,981 which the Examiner previously set up to cover "123" superconductors.

Counsel apologizes for revisiting the question of the counts in the new interference proposed by the Examiner, but it is so important to set up the correct interference that it seems imminently worthwhile.

Respectfully submitted,



James B. Gambrell
Registration No. 17,920
Charles M. Cox
Registration No. 29,057

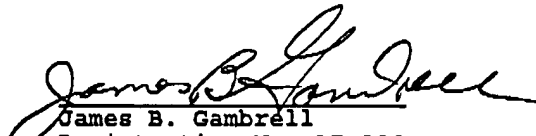
PRAVEL, GAMBRELL, HEWITT,
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1177 West Loop South, 10th Floor
Houston, Texas 77027
(713) 850-0909

Date: December 27, 1989

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below and that a copy is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on this the 27th day of December, 1989.

Date: December 27, 1989



James B. Gambrell
Registration No. 17,920
Charles M. Cox
Registration No. 29,057

TO SEPARATE, HOLD TOP AND BOTTOM EDGES, SNAP-APART AND DISCARD CARBON

FORM PTO-892 (REV. 3-78)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		SERIAL NO. 069082	GROUP/ART UNIT 152	ATTACHMENT TO PAPER NUMBER 2		
NOTICE OF REFERENCES CITED				APPLICANT(S) Bartoszek-Loza et al				
U.S. PATENT DOCUMENTS								
	DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE IF APPROPRIATE		
A	4379875	4/2/83	Samuels et al	524	280			
B	4466993	8/21/84	Hsu et al	427	54.1			
C	4468412	8/28/84	Fujii et al	427	38			
D	4557975	12/10/85	Moore	427	54.1			
E	4683169	7/28/87	Curry et al	427	54.1	11/4/85		
F								
G								
H								
I								
J								
K								
FOREIGN PATENT DOCUMENTS								
	DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUB-CLASS	PERTINENT EMTS. DWG.	PP. SPEC.
L								
M								
N								
O								
P								
Q								
OTHER REFERENCES (including Author, Title, Date, Pertinent Pages, Etc.)								
R								
S								
T								
U								
EXAMINER	DATE							
Pro. Padgett	9/14/87							
* A copy of this reference is not being furnished with this office action. (See Manual of Patent Examining Procedure, section 707.05 (a).)								



86-P-0841
TWG

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
07705971092	07/02/87	BARTOSEN, EUGEN	100-200841

THE STANDARD OIL COMPANY
200 PUBLIC SQUARE, 36-F-3454
CLEVELAND, OH 44114-2375

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MAY 25 1988

O.P.L. DIVISION

PACCT EXAMINER	
ART UNIT	PAPER NUMBER
150	6
DATE MAILED: 05/23/88	

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

POSTED

MAY 25 1988

☒ This application has been examined ☒ Responsive to communication filed on 9/3/88 ☒ This action is made final, BY CO

A shortened statutory period for response to this action is set to expire 3 month(s), 8 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449 | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474 | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1, 3-4, 6-16 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☒ Claims 2, 5 have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1, 3-4, 6-16 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner, ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved, ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

SERIAL NO. 069,082

-2-

ART UNIT 139

15. Claims 9-12 are rejected under 35 U.S.C. 112, fourth paragraph, as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claims 9 to 12 are dependant on a cancelled claim. The Examiner assumes that applicant forgot the change the dependence from claim 1.

16. The following is a quotation of the first paragraph of 35 U.S.C. 112:
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. 112, first paragraph, as failing to provide an adequate written description. Applicant has still not corrected all errors pointed out in first Office action. If this is because, for example applicant really intends to claim that the plasma pressure is about 130 to 140 Megatorr, then additional enabling disclosure is necessary.

18. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In combining claim 2 with the independent claim, applicant seems to have left out the numerical upper limit of the alternating current.

SERIAL NO. 069,082

-3-

ART UNIT 139

19. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C.

112, first paragraph, as failing to provide an adequate disclosure. The composition of a tradename product is not immutable, hence to be used in a specification they must be described in the specification to tell what they contain. When adding such information, support in specification as originally filed or from publication with a date prior to filing is required.

20. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

SERIAL NO. 069,082

-4-

ART UNIT 139

21. Claims 1, 3-4 and 6-16 remain rejected under 35 U.S.C. 103 as being unpatentable over Fujii et al in view of Moore.

Fujii et al teaches treating a plastic substrate, for example polyethylene or polypropylene, in order to improve its properties. One of the embodiments discussed is low temperature plasma treatment (col. 2, lines 44-54). Fujii et al then discusses coating the treated surface with a light or radiation curable resin composition. Many of the monomers suggested by Fujii et al (col. 4, lines 47-68) are the same as those discussed by the applicants in the specification as preferred for their "high nitrile resin", but Fujii et al is notably lacking in the use of nitrile.

Moore discloses coating polymeric surfaces, such as polycarbonates, in order to improve the plastics properties, such as scratch resistance, the same objective as Fujii et al. Both Fujii et al and Moore teach the use of acrylates in their resins, but Moore also teaches the use of acrylonitriles as a major component, and curing, especially by use of UV radiation (col. 8, lines 12-14) forming a hard, non-tacky coating (col. 8, lines 20-23). The wide ranges of voltages, frequencies, electrode structures and pre-treatment vacuum chamber pressure mentioned in the claim are typical of those used commonly in the art.

SERIAL NO. 069,082

-5-

ART UNIT 139

It would have been obvious to one of ordinary skill in the coatings art to use the specific coating taught by Moore in Fujii et al's more general procedure, especially since both references are treating plastics for the same purpose.

22. Applicant's arguments filed 2/8/88 have been fully considered but they are not deemed to be persuasive.

Applicant's arguments concerning the Fujii et al reference are unpersuasive. The following quotation is from pages 4 and 5 of applicants' original specification: "the surface modification of the plastic is effected by a reaction of the plastic with a reactive gas plasma. ... Typical reactive gases include but are not limited to water, hydrogen, oxygen, nitrogen, acetonitrile, ... More preferred are oxygen, water or a combination thereof. The reactive gas plasma does not include the use of nitrogen or acetonitrile to modify the surface of polycarbonates". As is clear from this, both applicant and Fujii et al (col. 2, lines 44-50) teach a preference for oxygen and both teach the use of Nitrogen in reactive plasmas for the modification of plastics ingeneral. Applicant only teaches that Nitrogen is not used with the particular group of plastics called polycarbonates, not "cannot be used in their process". Also note, deletion from an application

*delete
from cl. 2: 6,
not spec.*

SERIAL NO. 069,082

-6-

ART UNIT 139

after filing, does not remove the admission of information. There are no legitimate grounds presented for applicants' contention that Fujii et al teach away from the instant invention. Therefore, Moore et al need not be applied to supply this deficiency which in fact does not exist. The rejection as stated remains proper since no changes of substance were made in the claims by this last amendment.

23. References cited by applicant are noted and made of record.

24. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a).

Applicant is reminded of the extension of time policy set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

25. Any inquiry concerning this communication should be directed to M. L. Padgett at telephone number 703-557-7930.

M. L. Padgett:bt

703-557-7930

5-10-88

5-12-88

NORMAN MORGENSTERN
SUPERVISORY PRIMARY EXAMINER
ART UNIT 139

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SEP 1 1988

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
07/069,082	07/02/87	BARTOSZEK-LOZA	R T4G-P-0841

THE STANDARD OIL COMPANY
200 PUBLIC SQUARE, 36-F-3454
CLEVELAND, OH 44114-2373POSTED
SEP 14 1988
BY [Signature]

EXAMINER	
ADGETT, M	
ART UNIT	PAPER NUMBER
139	9

DATE MAILED:

09/12/88

Below is a communication from the EXAMINER in charge of this application
COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

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SEP 14 1988

P & L DIVISION

THE PERIOD FOR RESPONSE:

- ☐ is extended to run _____ from the date of the Final Rejection
- ☒ continues to run 3 months from the date of the Final Rejection
- ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.130(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date that the shortened statutory period for response expires as set forth above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).☒ Appellant's response to the final rejection, filed 8/23/88, has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- ☒ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - ☒ They raise new issues that would require further consideration and/or search. (See Note).
 - ☒ They raise the issue of new matter. (See Note).
 - ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The amendment to claim 17 on the last line introduces the phrase "in the same manner as in claim 16" which is not allowable under 37 CFR 1.101(b)(2).

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☒ Upon the filing of an appeal, the proposed amendment ☐ will be ☒ will not be, entered and the status of the claims in this application would be as follows:

Allowed claims: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Claims objected to: 17

Claims rejected: 17

However:

- a. ☐ The rejection of claims _____ on references is deemed to be overcome by applicant's response.
- b. ☐ The rejection of claims _____ on non-reference grounds only is deemed to be overcome by applicant's response.
4. ☐ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection.
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.
- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☒ Other

The new claim 17 adds old new conditions to the claim, not previously considered, hence raise new issues.

The other amendments would have been entered.

[Signature]
SHRIVE BECK
PRIMARY EXAMINER
ART UNIT 139

PTOL-303 (REV 3-88)

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